K

1949

File No. 0 Payment of wages 149

Legal DEPARTMENT

A BRANCH

Subject:—

Opinions under the Payment of wages

Act,
1936

K 7 c2 / E 1

File No.
Std. Sect. Slip 24 B c. 0 Payment of wages 149

599-17

C O N T E N T S .

Legal Department File No.0).Payment of Wages/1949.

Sr. No.	R.I./O.No.	Subject.	Pages.
		Opinions Under the Payment of Wages Act, 1936.	
1.	10516 17/9/49	Secs.7(1) and 2(e) Question Whether in view of Explanation to Sec.7(1) of the Act the employees who want to join the scheme can make direct payment to the employer.	1-6.

JPB. 1/6/62.
5 copies.

Office of the R.L.A.

Payment of Wages Act, 1936

Section 7(1) and (2)(e)

The management of the E.D.Sassoon Company propose to start a medical Scheme for the benefit of the mill staff with the object of providing medical treatment and hospitalization during the member's illness. The Scheme is contributory and the rates are fixed on the sliding scale on the basis of the salary. The Company promises to pay all expenses for the first year and will continue to contribute to the fund an amount equal to the aggregate staff subscription every month. The membership will be entirely voluntary and a member would be at liberty to resign at any time. The Commissioner of Labour recommends that under section 7(2)(e) of the Payment of Wages Act, 1936, the Company may be authorised to make deductions of the contributions from the wages subject to the conditions suggested by him. The Commissioner of Labour was informed by Government that the proposed deduction from an employee's wages under the Scheme would not necessarily mean a service or an amenity but appears to have an element of medical insurance in it, and that in view of Employers State Insurance Scheme under the Statutory Corporation, the proposed deductions under the medical schemes cannot be encouraged. He was, however, informed that it is open to the workers who want to join the scheme to make direct payment without deduction from pay. The Commissioner of Labour, however, refers to the Explanation to section 7(1) of the Payment of Wages Act and expresses doubts whether even direct payments made by the workers to the employer under the scheme would be permissible.

The question for R.L.A's consideration is whether in view of Explanation to section 7(1) of

the....

the Payment of Wages Act, 1936, the employees who want to join the Scheme can make direct payment to the employer.

Section 7(1) provides that notwithstanding the provisions of section 47(2) of the Indian Railways Act, 1890, the wages of an employed person shall be paid to him without deductions of any kind except those authorised by or under this Act. Explantion to section 7(1) provides that every payment made by the employed person to the employer or his agent shall, for the purposes of this Act, be deemed to be a deduction from wages. While interpreting the Explanation, R.L.A observed:-

"It is not clear why this Explantion was inserted. But on a reference to the debates it would appear that its main object was to check the practice of compelling the weavers either to take spoilt cloth in lieu of wages or to pay compensation for it. The Explanation contemplates payment by an employee to his employer on account of anything arising out of his employment such as compensation for spoilt cloth etc. and such payment not being deduction from wages could not have ordinarily been recovered under the provisions of sub-section (2), it being in the nature of a recovery from the employee. In the present case, however, a cash payment made by an employee for purchasing articles from a grain shop in excess of the limit upto which credit is allowed does not come from any advance paid by the employer and does not involve any direct or indirect deduction from wages. His cash purchases at the grain shop in excess of the credit limit have really no connection with the payment of his wages and the employer is in no way concerned etc."(See R.L.A.'s No.2399 dated 1-4-43 and 5932, dated 2-9-43). Applying the test so laid down, it may be stated that the monthly contribution made by

and-....

an employee to the Medical Scheme started by the Company would no doubt be a payment made by an employee to his employer forit is in pursuance of his existing relationship of employer and employee and consequently pertaining to his employment. It does not, therefore, appear that in pursuance of explanation to section 7(1) the proposed contribution can be made by an employee even directly. The view taken by the Commissioner of Labour is correct.

Id/- P.M.L.
15/9

Remembrancer of Legal Affairs.

U.R. to Labours Department No. 10516
Dated the 19th September 1949.

JPE.1/6/66.
4 copies.